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MINUTES
MONDAY – JUNE 23, 2003

Call to Order

The Board of Environmental Review's teleconference meeting was called to order by Board Attorney Tom Bowe at 10:00 a.m., on Monday, June 23, 2003, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

Board Members Present (via telephone): Chairman Joseph Russell, Dr. Garon Smith, David Fishbaugh, Kim Lacey, and Russ Hudson

Board Members Absent: Susan Brooke and Ward Shanahan

Board Attorney Present: Tom Bowe, Attorney General's Office, Department of Justice

Board Secretary Present: Joyce Wittenberg

Court Reporter Present: Lisa Lesofski, Lesofski & Walstad Court Reporting

Department Personnel Present: Jan Sensibaugh, Director; Tom Livers, Deputy Director; Lisa Peterson, Public Affairs Coordinator, Director's Office (DIR); John North, Chief Legal Counsel, Legal Unit (Legal), DIR; David Rusoff, Legal, DIR; Don Vidrine, Chief, Air and Waste Management Bureau (AWMB), Permitting and Compliance Division (PCD); David Klemp, AWMB, PCD; Dan Walsh, AWMB, PCD; John Coefield, Monitoring and Data Management Bureau (MDMB), Planning, Prevention and Assistance Division (PPAD);

Interested Persons Present: J. Daniel Hoven and Sara B. Stanton, Attorneys for Bull Mountain Development, Co.; Jennifer S. Hendricks, Attorney for Petitioners; Anne Hedges, Montana Environmental Information Center

Interested Persons Present via Telephone: George Hayes, Attorney for Petitioners

I. Action Agenda Items

A. In the matter of the issuance of the **Air Quality Permit for the Roundup Power Project, Permit No. 3182-00 (BER 2003-04 AQ)**.

Chairman Russell asked Mr. Bowe to confirm that there were two documents that the Board needed to approve and authorize the Chair to sign. Mr. Bowe responded affirmatively, stating that there were the decision and the record of exhibits.

Dr. Smith pointed out that in the decision document on page 25, paragraph 51A the word "the" was missing at the beginning of the first sentence. He also noted that in paragraph 52A, "project" wasn't capitalized in the first sentence.

Dr. Smith confirmed that he had received a letter from DEQ attorney David Rusoff, which set the H₂SO₄ limit, as the Board had requested. Dr. Smith said this document should be part of the record for this day.

Chairman Russell called for a motion to approve the Findings of Fact, Conclusions of Law, and Order with the changes noted by Dr. Smith and to authorize the Chair to sign it. Kim Lacey so MOVED. Mr. Hudson SECONDED the motion. The motion CARRIED with a unanimous VOTE.

Chairman Russell called for a motion to approve the Record of Exhibits, but Mr. Hudson and Ms. Lacey indicated that the document had not come through in their email. Mr. Bowe read the document aloud, verbatim. Dr. Smith MOVED that the Board accept the document and authorize the Chair to sign it. Ms. Lacey SECONDED the motion. The motion CARRIED with a unanimous VOTE.

Mr. Bowe explained that the Board had directed the Department to establish a BACT limitation for sulfuric acid mist, based upon the record, and to promptly add an emission limit and appropriate compliance testing to the permit. He said that the letter of June 20 had a sulfuric acid mist emission limitation and compliance testing provision.

Mr. Rusoff clarified that his June 20 letter was intended to fulfill what his notes indicated was the request of the Board for an emission limit based on Bull Mountain's application. Mr. Hudson asked whether the Department agreed with those standards. Mr. Rusoff declined comment because it was not the Board's intent to reopen the record and allow all of the parties to comment on the subject.

Mr. Hudson then directed his question to Dr. Smith, asking if he felt the limits were realistic. Bull Mountain's exhibit 213 and DEQ's exhibit 128 were referenced. Dr. Smith indicated that the emission limit appeared to be an appropriate level. Chairman Russell concurred.

Mr. Hudson MOVED that the Board accept the emission limits and require that the Department place them in the final permit. Dr. Smith SECONDED the motion. The motion CARRIED with a unanimous VOTE.

II. General Public Comment

The floor was opened for public comment. There were no comments.

III. Adjournment

Chairman Russell called for a motion to ADJOURN. Ms. Lacey so MOVED. Dr. Smith engaged a brief discussion about the District Court case regarding this permit, and then SECONDED the motion. A VOTE was taken and the motion CARRIED unanimously. The meeting adjourned at 10:30 a.m.

Board of Environmental Review June 23, 2003 Minutes Approved:

JOSEPH W. RUSSELL, M.P.H.
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW

DATE